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ABSTRACT

The author reviews the background and application of the least restrictive environment requirement of P.L. 94-142, the Education for All Handicapped Children Act. Components of the least restrictive environment (LRE) principle are reviewed, and a distinction is made between LRE and mainstreaming. Implementation issues, including misinterpretations of the law, are discussed, and examples of districts complying with the least restrictive mandate are given. One model in particular, R. Laymon's Variables Affecting Curriculum model, is detailed in terms of school district compliance. It is explained that the key component concerns the establishment of a continuum of alternative placements. The mandated assurances for individualized education programs are considered in terms of learner profile and evaluation. Also dealt with are issues related to staff profiles and organization, physical plant, fiscal expenditure, and public consensus. (CL)

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IMPLEMENTATION OF THE "LEAST RESTRICTIVE ENVIRONMENT" REQUIREMENT OF P.L. 94-142

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I. LOCAL SCHOOL DISTRICT COMPLIANCE

In the late 1960's, Lloyd M. Dunn launched an area of controversy which presently continues. He wrote an artcile questioning the efficacy of special class placement for children with mild mental retardation as well as those children with suspected learning disabilities. Dunn noted that children from ethnic and racial minority groups tended to be over-represented in special class populations. His objections to special class placement of these children centered around testing methods, permanancy of placement, and the idea that these children could easily receive compensatory help in the regular classroom setting.[1] He challenged educators by asking whether we can "...keep our self-respect and continue to increase the numbers of special classes for the exceptional...which are of questionable value for many of the children they are intended to serve."[2] These same sorts of objections form the basis of recent legislation and litigation on behalf of the handicapped.

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[1]Lloyd M. Dunn, "Special Education for the Mildly Retarded - Is Much of It Justifiable?" Exceptional Children (September 1968).

[2]Ibid.,p.21.

Prior to Dunn's article, Reynolds had described a "...continuum of placements for children with handicaps ranging from the least restrictive...to the most restrictive setting."[3] Reynolds contended that most education of exceptional children could take place in the regular classroom setting. He was of the opinion that services deliveries should be ranked in accordance with their divergence from the regular classroom setting, which he considered to be the service delivery "norm." Students should receive services as close to the "norm" as possible and should be returned to the "norm" as quickly as possible.

Thus, the controversy concerning appropriateness of existing special education delivery systems began. Educators were becoming increasingly dissatisfied with the traditional self-contained special education class placement. The idea of a "continuum" of placements brought about the realization that special education could be accomplished in a variety of ways. However, this controversy was limited to discussions in educational literature. Action did not begin until litigation on behalf of exceptional children was initiated.

One of the first cases brought to court on behalf of exceptional students was the Pennsylvania Association for Retarded Citizens v. the Commonwealth of Pennsylvania (1972). It was

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[3]Reynolds, M.C.,"A Framework for Considering Some Issues in Special Education," Exceptional Children (1962):28,367-370.

charged that Pennsylvania failed to provide all retarded children access to a free, public education. The three judge panel ruled that: 1) no such child could be denied admission to a public school program or have his educational status changed without procedural due process of law; 2) all mentally retarded persons were capable of benefitting to some degree from an educational program. This was defined as "...a free, public program of education and training appropriate to the child's capacity." 3) placing retarded children into a regular class was preferable to placing them in a special class, and this latter choice was preferable to any remaining option.[4]

In the same year, another case was brought to court. This was Mills v. the D.C. Board of Education. The rulings in this case are considered to be the prototypes for the Education for All Handicapped Children Act. The main points of the suit centered around the exclusion of exceptional children from the schools and a denial of a public education. This case concerned all handicapped students, not just the mentally retarded. A "master plan" for special education in the District of Columbia was required by Judge Waddy. This plan addressed the following issues:

1) programs and procedures for identifying and testing handicapped children;

2) placement into appropriate settings

3) procedures for monitoring and evaluating programs

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[4]J. Melvin Lane, "Litigation and Education of the Handicapped," in Organization and Administration of Educational Programs for Exceptional Children, ed. B. R. Gearheart (Springfield,Ill:Charles C. Thomas, Pub., 1974).

4) procedures for informing parents about programmatic and placement decisions

5) provisions for parental challenges regarding placement decisions[5]

The rights of exceptional children, as outlined in the rulings of these two court cases, were finally recognized and addressed by the federal government in 1975 with the passage of P.L. 94-142, The Education for All Handicapped Children Act. This is the first time that the legislature has given each state specific "marching orders" concerning the education of exceptional students. The first phase of the implementation process occurred October 1, 1977. The law will be fully implemented by October 1, 1980. Each state, on an individual basis, is responsible for ensuring that appropriate services are provided all exceptional students.

P.L. 94-142 is a statement of national policy concerning the education of children who happen to be handicapped. It is the result of "...unrelenting pressure by special educators and parents of handicapped children from every socioeconomic and ethnic group."[6] The research and debate preceding the passage of this law uncovered compelling reasons for the enactment of this law. As stated in the Statement of Findings and Purpose[7],

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[5]Ibid.

[6]Shiman, David A.,"When Mainstreaming Comes In, Are the Poor Left Out?" Learning (October 1978):120.

[7]Section 3(a) Section 601 of the Act (20 U.S.C. 1401)

the salient points are summarized as follows:

1) there are more than eight million handicapped children in the United States

2) more than half of these children (four million) are not receiving appropriate educational services

3) one million are excluded entirely from the public school system

4) the special education needs of identified handicapped children are not being met

5) many handicapped children have not been identified and therefore are not receiving special education services

The main provision of this law is that all handicapped children have available to them "...a free appropriate public education."[8] This is further defined as "...specially designed instruction, at no cost to parents or guardians, to meet the unique needs of the handicapped child."[9] The law details various components designed to ensure that the intent and purpose of this legislation is met.

One of these components is the provision that exceptional students receive instructional services in the "least restrictive environment." This provision is considered to be "...a defense against arbitrary and capricious placement and treatment practices."[10] The purpose of this paper is to describe this requirement and detail specific local school district implementation procedures.

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[8]Council for Exceptional Children,"The Education for All Handicapped Children Act - P.L. 94-142,"(Prepared for the Bureau of Education for the Handicapped, U.S.O.E., Washington,D.C.,1976).

[9]Ibid.

[10]Johnson, Richard A.,"Renewal of School Placement Systems for the Handicapped," pp.47-61. In Weintraub, Abeson, et.al. Public Policy and the Education of Exceptional Children(Reston,Va.:CEC):60.

The law specifically defines the term "least restrictive environment" and details its components. The definition and components follow:

Definition of "least restrictive environment":

> Each public agency shall insure:
> (1) That to the maximum extent appropriate, handicapped children, including children in public or private institutions or other care facilities, are educated with children who are not handicapped, and
> (2) That special classes, separate schooling or other removal of handicapped children from the regular educational environment occurs only when the nature or the severity of the handicap is such that education in regular classes with the use of supplementary aids and services cannot be achieved satisfactorily.[11]

The components of this provision include:

1) a continuum of alternative placements; these are defined as instruction in regular classes, special classes, special schools, home instruction, and instruction in hospitals and institutions, as well as supplementary services (resource room or itinerant instruction) provided in conjunction with regular class placement.
2) placement alternatives provided according to each child's I.E.P.
3) provisions must be made to allow handicapped children to participate with non-handicapped children in non-academic settings. These include meals, recess, and extra-curricular activities.
4) the State Education Agency must provide assistance and training activities to administrators and teachers in order to inform them of their responsibilities. The SEA must monitor placements and institute corrective actions where necessary.

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[11] The Federal Register, Tuesday August 23,1977.Implementation of Part B of the Education of the Handicapped Act (121a550-555).

The commentary provided in the rules and regulations for implementation states that "The overriding rule in this section is that placement decisions must be made on an individual basis." The "least restrictive environment" concept does not require or even encourage wholesale placement of all handicapped students in regular classrooms. The rules and regulations specify that "when a child is so disruptive in a regular classroom that the education of other students is significantly impaired, the needs of the handicapped child cannot be met in that environment." Consideration must be given to any potential harmful effect on the child or quality of services when making placement decisions. Placement of the child as close as possible to his home is another stipulation of the law.

The concept of "least restrictive environment" is not a whimsical flight of fantasy on the part of the legislature. Indeed, as the previous discussion details, this concept orginated in the literature and thoughts of special educators beginning in the 1960's. "There has been a steady, progressive inclusive trend in special education from the beginning, from unconcern to distal (far away) to proximal (near) arrangements."[12]

The Council for Exceptional Children interprets the construct of "least restrictive environment" as requiring a variety of alternative placement settings. Additionally, placement decisions must be made on an individual basis and must meet the tests of appropriateness and least restrictive.[13]

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[12]Reynolds, Maynard C. and Birch, Jack W. Teaching Exceptional Children in All America's Schools (Reston, Va.: CEC, 1977): 23.

[13]Ibid., p. 39.

There are many misconceptions about the concept of "least restrictive environment" that are present in current educational literature. Some have interpreted this requirement to mean that all handicapped children must be educated in regular classes. Others interpret this requirement to mean that handicapped children should be educated in special, self-contained classes. Abeson and Zettel point out that these interpretations are incorrect. The local school district has the responsibility to "...provide programs that are appropriate for individual children in the least restrictive alternative setting."[14]

The greatest misconcepttion about the "least restrictive environment" requirement stems from confusion with the term "mainstreaming." Ballard and Zettel quite correctly and unequivocably state that "It is not a provision for mainstreaming. In fact, the word is never used."[15] The definition and components of "least restrictive environment" do not require "mainstreaming" nor do they exclude other placements from use. The key is the provision of a continuum of placement alternatives from which can be chosen that alternative that is most appropriate and least restrictive for the individual child. "Mainstreaming" (inclusion of exceptional children in regular classes) is but one component of the delivery continuum.

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[14]Abeson,Alan and Zettel,Jeffrey,"The Education for All Handicapped Children Act of 1975," Exceptional Children (October 1977): 125.

[15]Ballard,Joseph and Zettel Jeffrey,"Public Law 94-142 and Section 504: What They Say About Rights and Protections," Exceptional Children (November 1977):183.

The "least restrictive environment" component of P.L. 94-142 is intended to be applied on an individual basis. It is listed as a part of the Individualized Education Program (IEP) requirement of the law. IEP's, written for each exceptional child served, must specify the extent to which the child will be able to participate in the regular school program. "Due process establishes the procedures that require the schools to consider all program alternatives and to select that setting which is least restrictive."[16]

P.L. 94-142 was conceived and written because of a growing realization that existing special education programming was inadequate and/or inappropriate to meet the needs of exceptional students it was designed to serve. As in the landmark "Brown" Supreme Court case, "separate but equal" special educational placements have been judged and found wanting. The "least restrictive environment" requires and encourages local school districts to provide a variety of programmatic alternatives leading, to the greatest extent possible, toward the inclusion of handicapped children in interaction with their non-handicapped peers.

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[9]Abeson, Alan; Bolick, Nancy; and Hass, Joyce, "A Primer on Due Process: Educational Decisions for Handicapped Children," Exceptional Children (October 1975):69.

II. IMPLEMENTATION

Full compliance with P.L. 94-142 requires that local school districts implement the specific provisions of the "least restrictive environment" component. These provisions have been widely discussed in educational literature. Yet, Abeson and Zettel cite that specific implementation procedures are not discussed or detailed.[17] Cruickshank questions the decision-making process used to determine the continuum of least restrictive placements. He is of the opinion that "least restrictive" is dependent upon program quality.[18]

Current research regarding the "least restrictive environment" focus upon students who have been "mainstreamed" into regular classroom programs. While this type of research may yield usable data, it assumes that appropriate placements have been made for each individual handicapped child. It also assumes that there is available a wide variety of placement options. Otherwise, the regular classroom, under the guise of "mainstreaming,"becomes a "dumping ground" for exceptional students,

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[17]Abeson and Zettel,"The Education for All Handicapped Children Act of 1975," p.115.

[18]Cruickshank, William M. "Least-Restrictive Placement: Administrative Wishful Thinking," Journal of Learning Disabilities 10, No. 4 (April 1977):193-194.

the same objection raised regarding self-contained special education classes.

Many of the current articles describing implementation of the "least restrictive environment" reflect the same misconceptions and errors presented in articles defining this concept. Many of these articles imply (or even state) that "mainstreaming" is the only acceptable placement for exceptional children. They fail to mention the IEP for each child and the preceding multi-disciplinary evaluation and planning processes used in establishing each child's IEP. These articles offer no more than general statements about the various categories of exceptionality without any mention of application on an individual basis. Instead of detailing the positive aspects of this law that are designed to promote rational and fair educational programming for handicapped students, these articles describe this law as an irrational "phase" that will soon pass away into oblivion.[19]

However, despite all of the misinterpretations of the law, there are a few articles that correctly identify school district responsibilities regarding the implementation of the "least restrictive environment" concept. Cole and Dunn describe some of the changes made in Ohio schools as they institute compliance procedures. Ohio had already begun upgrading and

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[19]Examples of some of these types of articles are found in a variety of educational magazines and journals. The six-part package about "mainstreaming" in the October 1978 issue of Learning seems to typify what can be found.

expanding special education programs and services ten years prior to the enactment of this law. Suggested procedures include: 1) designating an individual in the school district responsible for implementing all provisions of P.L. 94-142; 2) inservice workshops which would include simulations of case handleing as well as informational items; 3) initiate community and parental involvement; and 4) observe schools that have successfully implemented the law (these are a few of the procedures described). With specific reference to education in the "least restrictive envrionment", procedures include close observation of each exceptional child's adjustment to his/her placement setting and use of simulated IEP conferences to establish appropriate placement options.[20]

Solomon describes an excellent, pre-P.L.94-142 program for implementing special education in the "least restrictive environment." He describes how he, as principal of a new junior high building, successfully integrated handicapped and non-handicapped education together into a viable program. Included in his school population was the entire spectrum of exceptionality types (eight different types of handicaps were represented; there were eleven classes in all) in addition to the regular students. Diagnostic and placement meetings similar to the now-mandated multi-disciplinary conferences were used to establish placements on an individual basis. The presence of both groups of students

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[20]Cole, Robert W. and Dunn, Rita, "A New Lease on Life for Education of the Handicapped: Ohio Copes With 94-142," Phi Delta Kappan (September 1977):3-6,10.

and teachers provided a variety of educational settings ranging from self-contained special education classes to integration in regular classes with limited special education assistance. Combined with the newly-required components of P.L. 94-142, this school represents a "model" for others to follow.[21]

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[21]Solomon, Edward L.,"New York City's Prototype School for Educating the Handicapped," Phi Delta Kappan (September 1977): 7-10.

III. A MODEL FOR SCHOOL DISTRICT COMPLIANCE

The implementation of any change in the educational program of a school requires careful planning that considers as many of the relevant variables as possible. P.L. 94-142 is a drastic change in the provision of programs and services for exceptional children. The "least restrictive environment" component requires thorough planning for effective implementation.

One way that this analysis can be accomplished is through the use of a curriculum or problem-solving model. Models are useful vehicles because they help to delineate and display the components that need to be considered. The model chosen for use in this discussion is Ronald Laymon's Variables Affecting Curriculum (V.A.C.) model. This model contains six major categories which encompass the major variables that need to be considered. Specific implementation variables and procedures are taken from both professional education literature and actual school district practice. The variables discussed were considered representative but not necessarily all-inclusive.

Objectives

Administrators must realize the necessity of instituting the "least restrictive environment" concept, not only for legal compliance, but in order to provide effective, appropriate special education programs and services. The commitment must originate

from the school district administration and be reflective of the wishes and desires of the school board. It is essential that the total educational organization become dedicated to this implementation.

Program for Instruction

The key component in providing special education placements in the "least restrictive environment" revolves around the establishment of a continuum of alternative placements. Districts which do not provide this variety of placements become trapped into only offering existing programmatic placements, regardless of the degree of appropriateness. In addition to being unresponsive to individual staudent needs, failure to provide a continuum of placements is a violation of the law. Administrators (both general and special) need to establish and delineate all possible options for all handicapping conditions and plan to fill in existing programmatic/placement gaps. This continuum of services is carefully detailed in the law.

Educational placements must ensure that handicapped children receive educational services and programs in settings with non-handicapped students (assuming this is an appropriate placement for the handicapped child's needs). This is the top priority of the law! For most school districts, especially those serving children with high incidence handicaps, inclusion in the regular classroom (with supportive services as appropriate) will be the most frequent placement. Districts need to examine curriculum, scheduling, and other components of the total school program to determine if it has the necessary flexibility to facilitate the inclusion of handicapped children in regular classes.

Self-contained special classes must be carefully examined and evaluated to ascertain if they indeed provide services that cannot be made available in either the regular classroom or through itinerant or resource room special education placements. The law clearly stipulates that placement in special classes, separate schooling, or other removal from the regular education setting may only occur when services cannot be adequately provided in the regular classroom with supplementary aid. Thus, self-contained special classes must in reality be providing services unobtainable elsewhere.

The program for instruction for each handicapped child is based upon that child's IEP. The IEP must clearly specify the extent of interaction the handicapped child has with non-handicapped children. The IEP also included shortterm objectives and long-range goals for the child. It is a "working document" to be used in the provision of services for each handicapped child.

Handicapped children must participate with non-handicapped children in non-academic settings. These include meals, recess, and extra-curricular activities. School district policies should reflect this requirement. Careful scheduling may be necessary to ensure that this component is implemented.

Learner Profile and Evaluation

The specifics of this component are described carefully in the law and are taken from the assurrance that each handicapped child have an IEP. This curricular component encompasses the procedures which need to be followed in the formation of IEPs. Careful consideration must be given to this area because the IEP

must specify the extent to which the handicapped child will be educated with his non-handicapped peers. Also of importance is the realization that all placement decisions must be made on an individual basis. District-wide policies need to be designed to specify grading procedures, retention/promotion, suspension policies, and participation in district-wide standardized tesing.

Staff Profile and Organization

The qualifications of personnel in the school district is one of the primary areas of concern in the implementation of P.L. 94-142. One of the results of our present special education delivery system (self-contained classes with a specialist trained in the particular area of exceptionality) has been a schism between regular and special education. There is very little overlap between regular and special educators. A common bond and spirit of cooperation will need to be established.

It is essential that school districts provide all staff members with in-service types of training in order to more effectively implement special education programming. A survey of fifty urban and suburban principals revealed that these administrators identified inservice training as the foremost need of their staff. Public school teachers, university trainers, researchers, and federal personnel all cite inservice education of regular teachers as one of the greatest needs of the future.[22] Ten percent of a local school district's P.L. 94-142 monies are earmarked for inservice education.

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[22]Judy Smith and James Slantz,"Inservice for Educators: Second Thoughts from Four Sources," Educ. and Train. Mentally Retarded (April 1978):247-251.

Inservice education must include basic background information related to exceptionality types most likely to be served in the local school district setting. The ability to observe learning behaviors, create appropriate lesson plans, and make recommendations based upon informal classroom testing is another inservice component. Additionally, teacher attitudes toward the handicapped should be included in inservice procedings. Inclusion of handicapped children in regular classes is a specific priority - regular division teachers need appropriate training in order to effectively implement this requirement.

Selection and recruitment of staff is another administrative responsibility which must be considered. The school district administration must seek out staff members that have understandings of individual differences in children and are willing to provide learning experiences to fulfill these various needs. Since inclusion of exceptional students in regular classes is one placement alternative, the principal must strive to make a good pupil/teacher match. In any school building there are those teachers who are more able and more willing to accept different kinds of exceptionality. This is a crucial consideration.

Physical Plant

Provision of a variety of placement options implies that all facilities are accessible to all students. This may mean structural modifications or compliance with the "access path" concept specified in Section 504 of the Vocational Rehabilitation Act. Districts must be in full compliance with Section 504

regulations by June 1, 1980.

Fiscal

P.L. 94-142 provides for the allocation of substantial amounts of federal revenue for special education. These monies are designed to supplement, not supplant, existing expenditures for special education. In an era of dwindling resources, schools may be called upon to justify the extraordinary costs associated with special education programs and services. Relevant and usable data collection systems need to be established so that meaningful research can be conducted.

Public Consensus

Recent special education litigation and legislation has been the direct result of pressures exerted by the parents of exceptional children and special education advocate groups. The special education lobby is considered by many to be one of the strongest and most powerful political forces. School district officials need to recognize the influences that these groups have upon educational programming. A commitment to the ideals of special education need to be made. This in turn will lead to a greater dedication to the provision of excellence in educational services for all children.

Summary

The above represent some of the areas that need to be considered as schools strive to comply with the "least restrictive environment" requirement. Sincere efforts in these areas will result not only in compliance with the letter of the law but also its spirit.

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